Empty Promises and Non-Incorporation in Mercosur

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Why do the member states of the world's fourth trading block incorporate only about two thirds of all policies they adopt? This paper argues that empty promises are an important reason for Mercosur's incorporation problems and that Mercosur's institutional design furthers such a defective behaviour. Member governments easily sign agreements whenever they are rewarded for the mere act of doing so. However, in case they expect high costs from implementing these policies, they try to avoid incorporation. Since only the last state to incorporate a policy triggers its overall legal validity, Mercosur's members can easily veto any agreement *ex-post*. In addition to empty promises, mismanaged drafting and incorporation, and the abuse of negotiation power also pose important obstacles to incorporation. Free-riding, however, does not play a role. Due to the incorporation rules, there can be no externalities that incentivise unilateral defection. The paper substantiates the arguments empirically with the multivariate analysis of the complete incorporation record of 1033 policies adopted between 1994 and 2008.

Keywords: compliance, empty promises, Mercosur, ratification, comparative regionalism

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The member countries of the world's fourth trading block do not keep all of their promises. Ever since Argentina, Brazil, Paraguay and Uruguay founded Mercosur in 1991, the countries were criticised for negotiating and signing regional policies, but incorporating only two thirds of them into domestic law (Bouzas 2001; Malamud 2005; Ventura, Onuki and Medeiros 2012). Such a record is puzzling. Why would governments first sign agreements, but then refrain from putting them into practice?

Various scholars advance explanations. Bureaucratic or legal inefficiencies at the international[1] or the domestic level[2] are important impediments to incorporation. Others spotlight preference related issues. Power asymmetries between member countries (Eichengreen and Frankel 1995; Malamud 2011; Spektor 2010), Mercosur's formal rules for incorporation (Bouzas et al. 2008) or weak enforcement mechanisms[3] represent important obstacles. But why should governments sign policies already knowing that they will not follow up on their promise? And if governments adopted a decision in the first place, why would they try to prevent it at a later point?

This paper argues that empty promises are an important reason for non-incorporation in Mercosur. Under certain conditions, Mercosur's formal institutions create incentives to first adopt policies, but then refrain from incorporating them. Governments easily sign agreements if the mere act of doing so is rewarding. At the same time, if they expect implementation to be costly, governments seek to avoid incorporation and *de-facto* veto it. They can defect easily, because failing to follow up on one's promise remains without serious consequences: First, dispute settlement is weak and largely relies on intergovernmental means. Second, information about the status quo of incorporation is under disclosure. Non-incorporators are hard to detect and do not necessarily need to fear for their reputation.

I exemplify empty promises in two ways. In times of intraregional conflict over single

[1] See Bouzas and Soltz (2001b); Bouzas, Gratius, Soltz and Sberro (2008); Geneyro (2003); Peña (2003); Pena and Rozemberg (2005); Perotti, Stark, Vaillant and Ventura (2004); Ventura and Perotti (2004); Zalduendo (1998).
[2] See Bergamaschine Mata Diz (2005); Bouzas et al. (2008); Caetano and Perina (2003); Geneyro (2003); Nascimento (2004); Pena and Rozemberg (2005); Perotti, Stark, Vaillant and Ventura (2005)
[3] See Bouzas and Soltz (2001b); Bouzas et al. (2008); Geneyro (2003); Pena and Rozemberg (2005); Ventura and Perotti (2004); Zalduendo (1998).

but salient issues, announcing 'deeper' cooperation can be a way to signal a long term commitment to liberal trade policies and economic reform. In addition to international audiences, governments may also address domestic actors: Electorally accountable politicians sign regional agreements, because they want to bolster their image with constituents. In both cases, governments explicitly benefit from the mere act of signing policies. At the same time, they strongly delay incorporation to avoid the expected high transaction costs from implementation.

The study makes several contributions. Empirically, it is the first one to present a comprehensive data set on the incorporation of 1033 policies Mercosur's then four member states Argentina, Brazil, Paraguay and Uruguay adopted between 1994 and 2008. The multivariate analysis tests the mostly anecdotal claims from the mainly legal literature. It finds that next to management problems and the abuse of negotiation power, empty promises are an important piece to the puzzle of Mercosur's incorporation record. The paper also speaks to theoretical debates and relates empty promises (Deere 2009; Hafner-Burton and Tsutsui 2005; Marcoux and Urpelainen 2013) to the question of incorporation and compliance in regional integration. Reflecting the recently heightened interest in studying regional integration comparatively (Börzel and Risse 2012; Choi and Caporaso 2003; Malamud 2010), it shows how formal institutions matter to governments' strategic incorporation behaviour. Institutions can provide information in a way that allows governments to benefit from a "signing-bonus", but at the same time hide subsequent defective behaviour. Empty promises then can be – just like screening or constraining (Downs, Rocke and Barsoom 1996; Lupu 2013; Simmons 2000; von Stein 2005) – an important behavioural outcome of a particular institutional design.

The Incorporation of Mercosur Policies

International cooperation is typically perceived as a chain of events: governments negotiate, sign, incorporate, implement and finally comply with international agreements (Raustiala and Slaughter 2003). While signing a treaty expresses formal commitment, this commitment is not immediately binding. Governments first need to actively incorporate a treaty into the already existing domestic legal corpus (Bergamaschine

Mata Diz 2005; Malanczuk 2002). When implementing a treaty, governments put all legal and institutional changes into practice that are required to enact the international commitment at the domestic level. This comprises incorporation, but also all other necessary institutional adaptions (Raustiala and Slaughter 2003). Finally, compliance relates to the extent to which behaviour is in line with the terms laid down in a treaty (Young 1979).

Mercosur's Formal Rules for Cooperation

Argentina, Brazil, Paraguay and Uruguay founded Mercosur in 1991 and installed its current institutional design with the Protocol of Ouro Preto in 1994 (Bouzas 2001; Ventura and Perotti 2004). Member states adopt decisions unanimously in either of its three decision bodies, rotating the presidency on a 6-month basis. The Common Market Council is the highest decision-body. Delegations include the ministers of foreign affairs and the ministers of economic affairs. Its main function is to delineate strategic decisions, to watch over the founding treaty of Asunción, to formulate policies furthering the economic market and to decree on financial and budget decisions. The other two

bodies, the Common Market Group and the Trade Commission, have a lower position in the institutional hierarchy – which is already reflected by the rank of its mostly administrative delegations. The Common Market Group serves as the main policy maker in Mercosur and in practice decrees more than two thirds of all policies. The Trade Commission is specialised on trade and the common external tariff.

Each country incorporates the exact wording of the respective agreement into domestic law and communicates successful incorporation to the Mercosur Secretariat.[4] The policies are, however, not immediately binding: They enter into force simultaneously in all member countries thirty days after the Secretariat has received notice of the last member's incorporation.

Enforcement mechanisms are key for the strategic dynamics of international politics (Keohane, Moravcsik and Slaughter. 2000). Even if Mercosur's formal institutions for enforcement developed to some extent regarding independence, access and embeddedness (Arnold and Rittberger 2013), Mercosur's member governments largely remain in control. Measured with the typology for dispute settlement systems from Yarbrough and Yarbrough (1997), Mercosur files into the second weakest category. In terms of Keohane et al. (2000), Mercosur's dispute settlement system displays a moderate level of legalization at most (Arnold and Rittberger 2013; Haftel 2013; Lenz 2012). Most importantly, even despite moderate formal powers, the dispute settlement mechanism failed to develop real leverage in practice (Caetano 2011; Vinuesa 2004).

Finally, Mercosur has a distinctive approach with regard to access to information about incorporation: While Mercosur's Secretariat collects all data about successfully incorporated policies, this information is not publicly available. The Secretariat provides information only for individual regulations, but refuses to respond to encompassing queries.[5]

The Logic of Empty Promises

[4] While this had been good practice from early on in Mercosur, decision CMC 20/02 made it formally compulsory.

[5] The Secretariat's website allows for querying the status quo of single regulations, only.

Empty promises in international relations have been studied before. Deere (2009) investigates why developing countries first sign trade related aspects of intellectual property rights, but then refrain from implementing them. Marcoux and Urpelainen (2013) show why governments contract on hard law, but can chose not to enforce it. Hafner-Burton and Tsutsui (2005) seek to explain why some governments ratify human rights treaties, but do not comply with their terms.

In general, when making an empty promise, delegates consider two decisions: whether to sign an agreement and whether to follow up on it. Self-interested actors evaluate the stages jointly and chose a behavioural strategy that maximises their overall output. Fleeting policy signals occur under one premise: any benefit from signing an agreement must outweigh negative consequences. Which costs and which benefits occur at the two respective stages?

Delegates may sign agreements to merely express their intention to cooperate. For example, a treaty could be the attempt to convince a domestic constituency about a general positive attitude towards international law (Dai 2007; Marcoux and Urpelainen 2013). International commitment can also serve to overcome time-inconsistent preferences, be it to preempt state collapse and secure the peaceful settlement of conflicts (Moravcsik 2000; Simmons and Danner 2010), or economic prosperity (Milner and Büthe 2009; Deere 2009).[6]

Incorporation adds to actors' cost-benefit calculations. First, delegates expect distributional consequences from putting a policy into practice. High adaption costs can make the implementation of international rules prohibitive (Deere 2009). Policy out- comes may even run counter the interest of the signatories (Marcoux and Urpelainen2013). For example, Hafner-Burton and Tsutsui (2005) point to the fact that while rogue governments benefit from signing human rights treaties, they prefer these policies not to become effective. Second, governments may fear bad reputation from failing to follow up on their promise (Carrubba 2005; Keohane 1984). This implicit enforcement fails, however, if defection can go unnoticed and interest groups do not hold sway over their governments (Dai 2007; Hafner-Burton and Tsutsui 2005; Marcoux and Urpelainen 2013). Finally, dispute settlement mechanisms can impose explicit costs via sanctions (Hafner-Burton and Tsutsui 2005; Deere 2009).

[6] Governments may even strategically use ratification – rather than signing an agreement – to bolster their legitimacy (Hafner-Burton and Tsutsui 2005; Schimmelfennig 2000).

Governments chose their strategy on the basis of the expected outcome from signing and incorporating from three scenarios. First, if signing an agreement is beneficial and governments expect an overall positive return from incorporating the policy, they cooperate in both stages. They adopt a policy and incorporate it swiftly. Second, governments refrain from even signing an agreement, if there is little to gain from the signature alone and if incorporation is expected to have negative consequences. Finally, governments make empty promises when signing an agreement is beneficial and at the same time, they expect incorporation to be costly. If non-incorporation has little consequences, too, then governments can benefit from signing while at the same time saving follow-up costs. They readily adopt a policy, but prefer to prevent its incorporation.

Empty promises run counter the intuition of credible commitment theory where governments explicitly self-impose non-trivial *ex-ante* or *ex-post* costs (Fearon 1994; Martin 2005; Simmons and Danner 2010). Governments are purposefully misleading and they are being rewarded for doing so. Why would anybody continue to interact with such a government? Or put differently: What are the conditions under which a government can make empty promises?

In practice, empty promises are possible, because the addressees of the government's message are often miopic. Given the complexity of international trade policies, audiences have a limited attention span. The promise to cooperate and the actual change in conduct are often perceived as two unrelated events instead of a single one made up of two stages. Audiences focus on governments' immediate claims rather than evaluating promises on a more encompassing level. For example, in times of economic crisis, inter- national markets react immediately when governments *announce* new trade policies and not when they implement them. Magee, Brock and Young (1989) argue that under such conditions voters accept ambiguous signals and end up rewarding even policy platforms that are against their interest. Recent empirical work stresses that democratic governments can exploit voters' incapacity strategically (Kono 2006). Governments negotiate and adopt trade policies that favour particular pressure groups, but thwart the interest of the larger share of the population. Eager to keep their voters's support, governments obfuscate their real intentions by for example raising the technical complexity of policies. In short, governments make use of constituents' incapacity and seek to veil noncompliance – in particular when the timing of the follow-up event cannot be clearly identified (Keohane 1997).

Expected Incorporation Behaviour

Incorporation has two observable components: it is a binary choice and at the same time it can take different amounts of time. If governments clearly benefit from a policy, they successfully incorporate after a short period of time. In contrast, if a policy offers little advantages, governments are less eager to incorporate swiftly. They take considerable time to incorporate, thus *de-facto* vetoing agreements *ex-post*.

Empty Promises in Mercosur

Governments make empty promises for different reasons. In the first case, governments sign Mercosur agreements to signal their sustained interest in regional cooperation and market friendly economic policy making. At the same time, however, they try to evade the implementation of and compliance to costly policies. In Latin America, regional cooperation occurs against the backdrop of economies in development and profound pro-cyclical business cycles (Wibbels 2006). Commitment to regional cooperation has an important signaling function and thus helps solve the time inconsistency problem (Büthe and Milner 2008; Pevehouse 2002).

Intraregional conflicts among member governments may overshadow these positive effects (Gómez-Mera 2013). Governments need to reassure others that despite their differences, they do not question regional cooperation per se: To counterbalance severe crises, they 'deepen' cooperation and adopt policies that explicitly regulate further policy areas (functional scope) or even promise more centralised governmental cooperation (level of centralisation).[7]

However, in Mercosur these kind of promises are particularly unlikely to be kept. While adopting these policies sends a clear message about the intention to cooperate in the first instance, they will cause considerable adaption costs when eventually put into practice. Deepening cooperation means opening up the traditionally well-protected Latin American economies to regional trade, exposing domestic companies to competition and thus triggering opposition of strong domestic interest groups. Governments are therefore highly inclined to defect. After all, non-cooperation is hard to detect since incorporation records are not public. Explicit enforcement of agreements involve diplomatic costs, which is why in practice

[7] See Leuffen, Rittberger and Schimmelfenning (2013) for the dimensions of differentiated integration.

members only rarely resort to these dispute settlement mechanisms.

To conclude, during short term conflicts over single but salient issues, governments signal the survival of the regional integration project by jointly adopting policies that 'deepen' Mercosur's polity.[8] These agreements, however, can only be put into practice against the opposition of domestic interest groups. Since this is particularly costly, governments have an interest in delaying or even in vetoing the incorporation of these policies.

H1**:** *The more intraregional conflict at the moment of signing a policy, the longer it takes to incorporate a policy that suggests deeper and more functionally diverse regional cooperation.*

In the second case, democratically elected governments use their signature to appeal to their electorate. But promises remain unkept whenever policy adaptions are costly. Political actors benefit from presenting themselves as proactive and entrepreneurial leaders realising national interests in international negotiations – a behaviour often observed with Latin American leaders at regional summits (Dabene 2009; Rogoff 1990; Whitehead and Barahona de Brito 2005). The more popular regional cooperation, the more eager are politicians to make use of the diplomatic stage. Governments again turn to contracts that diversify or centralise the regional polity, because it portrays them as proactive and cosmopolitan leaders.

Once more, Mercosur's low implicit and explicit sanctioning capabilities allow politicians to easily suspend incorporation in the foresight of costly political consequences. Politicians sign-off regional policies that promise 'deeper' cooperation, knowing that they can easily veto *ex-post*.

Not all delegates, however, follow this logic. Only democratically accountable decision-makers who care for popular support engage in this kind of window dressing. In Mercosur, while political leaders convene in the Common Market Council, the other two decision bodies are made up of administrative ranks. Domestic preferences tempt politicians from the Common Market Council to make empty promises, but administrators from the Common Market Group and the Trade Commission remain

[8] For the effect of an increase in intraregional conflict on the adoption of policies regarding 'deeper' cooperation, please see the online appendix.

unaffected. When regional cooperation is popular, politicians easily adopt highly visible and salient policies decisions about the further centralisation and functional differentiation of Mercosur. But these signatures are a mere *façade*. Given the pronounced transaction costs during implementation, the incorporation of policies on 'deeper' cooperation adopted in the Common Market Council at high levels of domestic support for regional cooperation is likely to be slow.

H2: *When Mercosur's popularity is high, elected politicians in the Common Market Council are more likely to make empty promises than at low levels of popularity. In consequence, policies that politicians adopt regarding the functional diversification and stronger centralisation will take more time for incorporation.*

Alternative Explanations

Empty promises are not the only reason for non-incorporation. Authors with often legal backgrounds criticise Mercosur's limited regulatory capacities. Even though this literature only rarely refers to other empirical cases of international cooperation, its arguments are often quite similar and can be structured along the lines of established distinctions between managerial and preference related accounts (Simmons 2010; von Stein 2013).[9]

Managerial explanations in the tradition of Chayes and Chayes (1995), Victor, Raustiala and Skolnikoff (1998) or Weiss and Jacobson (1998) argue that in principle, governments keep the promises from the negotiation table. International negotiations require considerable investments in terms of time and human resources. Only those willing to comply bear the necessary transaction costs. Non-incorporation is most likely accidental and not the result of strategic defection.

First, Mercosur's purely intergovernmental decision making matters. Delegations rarely meet in person and only a few times per year. Staff rotate too frequently and cannot follow up on the incorporation of regulations they draft themselves (Gonzáles Garabelli 2004).

[9] [9]For an overview over relevant mechanisms to incorporation and ratification processes in other contexts than Mercosur see Simmons (2010); Treib (2008); and von Stein (2013).

Given scarce administrative resources, decision bodies are dramatically overcharged (Peña 2003; Ventura and Perotti 2004; Zalduendo 1998). Mercosur's agreements therefore often lack the sufficient level of technical and juridical scrutiny. In return, if delegates can address juridical and technical details, incorporation is much less error prone and occur comparably swiftly. Steunenberg and Kaeding (2009) find similar effects for the transposition of maritime directives in the EU.

For the same reason, Mercosur's delegations grapple with complex regulations. Policies that define many comprehensive changes to a status quo are more likely to be error prone. Any obstacles during the incorporation process immediately translate into longer and more exhaustive incorporation processes. The less complex a policy the more likely swift incorporation. In the European Union, the complexity of a directive delays transposition in an important way (Haverland and Romeijn 2007; Kaeding 2006; Zhelyazkova 2013).

Insufficient coordination among Mercosur's delegations and domestic counterparts contributes to policy incompatibility. Delegates often fail to recognise administrative, legal or constitutional realities of member states, causing technical and juridical problems (Bouzas and Soltz 2001a; Bouzas et al. 2008; Geneyro 2003). Domestic actors responsible for incorporation such as national ministries (Peña 2003) or parliaments (Perotti et al. 2004; Ventura and Perotti 2004) therefore need to mitigate *ex-post*. The number of relevant domestic actors delegations need to consult when drafting a policy drive the transaction costs of coordination. More coordination effort means less capacity to address the complexity of different preferences properly and incorporation takes longer (Buchanan and Tullock 1962). Similar effects have again been found in the European Union (Borghetto 2007).

Not all policies regulate an issue for the first time. The further Mercosur progressed, the more often do governments alter existing Mercosur rules already adopted before. Studies on the European Union have found different effects from amending rather than newly regulating issues. Some argue that amendments mostly refine existing policies and are incorporated swiftly (Borghetto, Franchino and Gianetti 2006; Mastenbroek 2003). Others challenge this view and contend that re-adjusting policies enforces actors to change established routines and behaviour, causing higher transaction costs and in consequence more comprehensive incorporation processes (Falkner, Treib, Hartlapp and Leiber 2005). I suggest to investigate and control for this mechanism, but leave the result open to

empirical scrutiny.

Finally, some refer to the constitutions' legal traditions and the way in which they relate domestic to international law (Bergamaschine Mata Diz 2005; Nascimento 2004; Pena and Rozemberg 2005). In monist constitutions, international law has precedence over domestic law. Dualist constitutions, in contrast, posit that international and domestic law are two distinct spheres. Since international law is between states and not between individuals, it is less powerful than domestic law. The legal procedures for incorporation are less demanding under a monist constitution than under a dualist one. Brazil and Paraguay are the two members with constitutions in a more dualist tradition, hence incorporation should take longer than in Uruguay or Argentina (Bouzas et al. 2008).

Preference related arguments highlight actors' strategic behaviour. Weak states try to use regional cooperation to hedge the influence of larger states (Gómez-Mera 2005). At the same time, the powerful states use the regional block to project power (De Lima and Hirst 2006; Spektor 2010) and consolidate their regional leadership (Eichengreen and Frankel 1995; Malamud 2011; Vigevani, Favoron, Ramanzini and Correia 2008). Member states' bargaining power stems from the strong asymmetry in the levels of intraregional trade interdependence (Gómez-Mera 2013). Ultimately, the economies of Paraguay and Uruguay are in relative terms much more involved with its Mercosur partners than the economies from Argentina and Brazil. Those who depend little on intraregional trade can rather easily cooperate with countries outside the regional block. Argentina and Brazil are capable of translating this autonomy into direct power at the negotiation table. They find it particularly easy to realise their preferences in regional negotiations and a ultimately more likely to incorporate policies correctly and swiftly (Fearon 1998). In the European Uni Mbaye (2001) expects a similar influence from bargaining power on the transposition of directives.

Bargaining power, however, does not stem from trade interdependence, only. Chairing internatio summits has been found to be yet another important way to influence the outcome of negotiatic (Tallberg 2006, 2010). The power from chairs derives from their informational advantages. They are close contact with all delegations and gain insights into the real bargaining position of other parties. Th also set the agenda, structure negotiations, administer voting and summarise results. Due to Mercosu strong intergovernmental character with a rotating presidency hosting all Mercosur meetings during this month period, chairs should have a particularly distinct influence on negotiation results (Tallberg 2010). I government is in charge, it finds it much more easy to realise the own preferences during the o presidency and will incorporate those policies particularly swiftly.

Mercosur's rules for incorporation prevent that member states free-ride on their partners' efforts. Fr
riding can occur, if governments benefit from public goods without having to bear the related adapti
costs. In contrast, Mercosur's members generate their public goods with a step-level production functi
(Elster and McPherson 1993; Ostrom 2003) – only the last country that incorporates determines when t
agreed behaviour is binding and cooperation is fully triggered (Bouzas et al. 2008;Geneyro 2003).[10]

Policies that are typically capable of producing externalities conducive to free-riding do not do so in Mercosur. The common external tariff is a point in case. Once a new tariff becomes valid, unilateral defection pays off and the country that offers more favourable conditions benefits from more trade. But since regulations are legally binding only when the last member incorporates, tariffs are implemented jointly in Mercosur and can only lead to benefits for all. The incorporation of regulations regarding the common external tariff should therefore not take more time for incorporation than other policies.

Mercosur's Incorporation Gap

Despite numerous references to Mercosur's incorporation problems in the literature, only few studies relate to the phenomenon empirically (Caetano and Perina 2003; Nascimento 2004; Perotti et al. 2004; Rivas 2006; Ventura, Onuki and Medeiros 2012). The restricted access to the Secretariat's existing complete data base on incorporation behaviour represents an important impediment. This paper relies on three different, but overlapping subsamples of the database from Mercosur's Secretariat. It is the first one to present and analyse the complete incorporation record of all 1033 policies adopted between 1994 and 2008 that require incorporation, adding up to 3560 incorporation processes in the four member countries.[11]

Measuring Incorporation and Its Determinants

[10] In general, international agreements may foresee different rules as to when exactly policies become legally binding. In some cases – like the European Union – a member government who incorporates a directive suffices to trigger immediate validity in this particular country. In other cases, policies take effect only after a previously agreed threshold has been reached. For example, the Kyoto Protocol foresees in its Art.25 that at least 55 states that also account for at le 55% of CO2 emissions need to deposit their instruments of ratification. In the extreme case, like i Mercosur, all countries need to legally commit before a policy enters into force in all signatory states. These incorporation rules have important consequences for the strategic character of international cooperation. The respective quora determine when domestic courts can enforce international law and when exactly signatory states jointly produce collective goods (Frohlich an Oppenheimer 1970; Schelling 1973).

[11] Not all of Mercosur's policies have to be incorporated by all four members, which is why the overall number of incorporation cases is not 4 X 1033 = 4132

How large is Mercosur's incorporation problem? Even though some use the term "Mercosur syndrome" as a general label to describe non-compliance (Vaillant 2007), Mercosur displays average levels of non-incorporation when compared to other cases (Gray 2014).

FIGURE 1 ABOUT HERE

Figure 1 Incorporation record of Mercosur's member states over the course of the years.

The study quantifies Mercosur's incorporation in two ways.[12] Figure 1 charts the fraction of successfully incorporated regulations as measured in each year. Incorporation initially plummeted in 1996, but has been increasing ever since and reaches a level between 63.0% in Uruguay and 75.7% in Brazil in 2008. Since 1997, while Brazil seems to perform best, Uruguay is worst and Argentina and Paraguay are usually in between.

Incorporation also has a time dimension. Figure 2 shows the days that members spend on incorporation, calculated as the difference between the date of adoption in Mercosur and the date of incorporation of the respective domestic legal instrument. The lighter box-plots display durations for successfully incorporated regulations, the darker ones summarise the durations of non-incorporated cases as of 2008. Successful incorporation is on average quite swift. The median incorporation duration is 389 days for Argentina,

FIGURE 2 ABOUT HERE

Figure 2 Incorporation duration of incorporated and non-incorporated policies in Mercosur.

207 days for Brazil, 439 days for Paraguay and 348 days for Uruguay. The distribution of the values is right skewed, with extreme values beyond the range of 1.5 times the interquartile range. While the majority of the policies is incorporated swiftly, some of the policies receive attention only after several years have gone by. The durations of non-incorporated cases are more evenly distributed with median values ranging from 1851 days in Argentina, 1813 days in Brazil, 1446 days in Paraguay to 1820 days in Uruguay. The variation within the countries is quite large. Mercosur's members adopted some of

[12] In contrast to other regional organisations (see Hartlapp and Falkner 2009), successful incorporation and its timing can be exactly identified for 92.95% of all cases. Usually, Mercosur's members use one legal instrument for incorporation. Since 2002, decision CMC 20/02 obliges th members to use only one single domestic legal instrument. Governments occasionally made use c several legal measures only in early years. I rely on the first legal measure notified in those cases.

the policies only recently which is why these policies can only be observed over a short time span. In other cases, member governments have been taking already more than 10 years for incorporation.

Covariates operationalise the political and administrative context of the incorporation process, and characteristics of the policies themselves. The main explanatory variables of interest are the level of conflict between member countries and the popularity of regional

cooperation in the electorate. Gómez-Mera (2008, 2013) measures the perceived level of conflict among member states on the basis of media coverage. She devises a yearly, aggregate index that takes on average 3.39 and varies with a standard deviation of 4.73. The *Latinobarómetro*-surveys include questions about the popularity of regional economic cooperation on a yearly basis.[13] I calculate the support for regional cooperation for each country and year and impute any missing values (Honaker and King 2010). Only a small part of Mercosur's population takes an explicitly negative stance towards regional cooperation. On average, 81.26% of the population (standard deviation 6.57) are not against regional economic cooperation.

Further variables address the respective observable implications from alternative explanations. Mercosur's policies may carry an appendix with technical or regulatory details. Policies featuring such a document are more likely to be the result of elaborate preparation. On average, technical appendices indicate that delegates were more attentive when drafting a policy. In Mercosur, 60.68% of all polices carry such an annex. Complexity can be operationalised with an index on the basis of the length of a policy (Franchino 2000) and the references to already existing policies (Krehbiel 1991). The number of words and the number of paragraphs measure the length of a policy.[14] I also count the referrals to existing regional regulations in the preamble. After decomposing the variance of all three measures into their principal components, the respective principle component scores of each regulation allow to interpret policy complexity on a common, latent scale (Bartholomew, Steele, Moustaki and Galbraith 2008; Joliffe 2002). The mean of this variable for the pooled sample is at 0.16[15] and has a standard deviation of 1.36. The index from Beck, Clarke, Groff, Keefer and Walsh (2001) is a standard scale to capture the veto players of the respective domestic political system in a given year. It takes a mean of 3.83 (standard deviation 1.21). Next, Mercosur's policies explicitly state in their preamble if they amend and overrule

[13] Please see online appendix for the recoding of the respective questions.
[14] Both values are log transformed to account for their skewed distributions.
[15] The principal component score was calculated using all Mercosur regulations– meaning those that require incorporation, but also those that do not explicitly demand it.

Table 1 Descriptive statistics for three categorial variables.

	n
Decision Bodies	
CMC	599
CMG and TC	2961
Countries	
Argentina	870
Brazil	882
Paraguay	929
Uruguay	879
Policies	
Common External Tariff	725
Governmental Cooperation	800
Mercosur Interna	104
Internal Market	87
Tariff Exception	276
Technical Regulations	1537
Others	31

already existing legislation. In Mercosur, 14.88% of all policies fall into this category. Bargaining power allows to realise the own interest and secure more favourable terms in international negotiations. Since Mercosur's policies do not always concern all countries, Argentina has to incorporate 870 Mercosur policies, Brazil 882 policies, Paraguay 929 policies and Uruguay 879 policies. Second, Mercosur's members share the presidency on a rotating, 6-months based scheme. A dummy identifies those policies a country signs during the own presidency – on average 24.26%. Mercosur's policies can be categorised according to six policy types: 725 cases relate to the common external tariff; 800 announce 'deeper' governmental cooperation; in 104 cases, the policies concern Mercosur itself; 87 incorporation processes relate to the internal market; 276 cases define exceptions from the common external tariff; 1537 cases concern technical regulations and finally 31 cases could not be attributed to any category. Lastly, fixed effects control for the respective decision bodies. Of all 3560 incorporation processes, politicians in the Common Market Council adopted 599 policies and bureaucrats in the Common Market Group and the Trade Commission adopted 2961 policies.

Modeling Incorporation Behaviour

Hazard rate models not only ask whether incorporation is successful, but also how much time a government takes to do so. The unit of analysis – here a Mercosur policy in a member country – enters the observation period with the status as non-incorporated policy and alters this discrete state after a certain amount of time. Depending on covariates, the probability that incorporation occurs may be high at earlier or at later stages (Box-Steffensmeier and Jones 1997; Johnson and Albert 1999): While incorporation is likely to be swift in the first case, it will be rather slow in the second. A Weibull distribution parameterises the baseline probability that an event occurs given that it has not taken place yet.[16] Table 2 presents regression results from the multivariate hazard rate model (n = 3560). As will be discussed in more detail further below, results indicate that in addition to management failures and the abuse of negotiation power, empty promises are an important impediment to incorporation in Mercosur.

The main variables of interest are in line with theoretical expectations. The level of governmental conflict during the negotiations does not affect incorporation in the baseline category. But the interaction between the level of conflict and the policies on governmental cooperation is statistically different from 0 at a 95% confidence level and indicates more time until successful incorporation for higher levels of conflict.

Similarly, public support for Mercosur is not systematically related to the expected time necessary to incorporate. But Mercosur's decision bodies make an important difference. When the Common Market Council adopts a policy, higher levels of public support for Mercosur lead to longer incorporation in comparison to those adopted in the Common Market Group. In contrast, when the Trade Commission adopts policies, high

[16] The distribution assumes proportional effects from the covariates on the baseline rate. I examine this assumption for a Cox-model with the Therneau-Grambsch test (see Grambsch and Therneau 1994). The global test reports its violation for all variables. The standard remedy would be interactions with some transformation of time (Keele 2010; Licht 2011). It does not mitigate the problem in any of the cases. Further robustness checks with specifications that do not require either assumptions lead to similar results in magnitude and error margin. In addition, from a theoretical perspective, a monotonic duration dependence is a plausible way to think about the incorporation process. The Weibull distribution therefore seems to be an appropriate distribution to model non-incorporation.

levels of public support lead to swifter incorporation. Both interaction effects report standard errors at standard levels of statistical significance. The interaction effects are opposite to the effect from the decision body fixed effects, alone.

Further variables control for alternative explanations. The existence of an annex is associated with less time necessary for incorporation with statistical evidence for an effect different from 0. Next, policy complexity correlates positively with longer incorporation processes, but the coefficient is not statistically different from 0. In similar veins, more veto players at the time of adopting a policy require more time for incorporation. Again, the uncertainty about the estimate is slightly too large to report an effect on a conventionally accepted confidence level. Policies that explicitly refer to existing legislation lead to expect more time for incorporation at a statistically significant level.

Preference related factors also affect incorporation in Mercosur. Regarding the bargaining power of the member countries, Brazil, followed by Argentina and then Paraguay, all incorporate more swiftly than Uruguay. A member country that holds the presidency in Mercosur during the adoption of a policy incorporates it more swiftly afterwards. All of these effects are statistically significant.

Table 2 Estimation results from survival model (Weibull Distribution). The reference categories for the dummy variables are as follows. Countries: Uruguay; Decision bodies: all policies adopted by the Common Market Group; Policy types: all policies regulating the common external tariff. All fixed effects for the pol- icy types are in the model – the table only reports results for the interactions with the conflict level.

	Coeff.	SE
(Intercept)	5.63	(0.45)
Conflict Level	-0.01	(0.01)
Mercosur Support	0.00	(0.01)
CMC	-1.73	(0.92)
TC	4.16	(1.21)
Argentina	-0.20	(0.07)
Brazil	-0.65	(0.08)
Paraguay	-0.19	(0.08)
Veto Player	0.05	(0.03)
Meeting in Own Country	-0.19	(0.06)
Complexity	0.04	(0.02)
Annex	-0.15	(0.06)
Overruling Existing Policies Policy	0.26	(0.08)
on		
Mercosur Interna	0.23	(0.26)
Internal Market	1.26	(0.22)
Tariff Exception	-0.04	(0.16)
Technical Regulations	1.46	(0.10)
Others	2.14	(0.60)
CMC X MCS Support	0.04	(0.01)
TC X MCS Support	-0.04	(0.01)
Conflict Level X Governmental Cooperation	0.04	(0.02)
Conflict Level X Mercosur Interna	0.05	(0.03)
Conflict Level X Internal Market	-0.07	(0.06)
Conflict Level X TariffException	-0.06	(0.03)
Conflict Level X Technical Regulations	0.01	(0.01)
Conflict Level X Others	-0.03	(0.14)
Log(scale)	0.25	(0.02)
Log Likelihood	-19959.8	
N	3560	

Finally, the model contains a series of fixed effects that distinguish between different types of policy. The baseline category are regulations concerning the common external tariff. Only exceptions from the common external tariff take less time for incorporation. All other categories require more time. With the exception of policies regulating Mercosur itself and exceptions from the common external tariff, all fixed effects report standard errors small enough to refute the null-hypothesis.

Empty Promises, Management Problems and the Abuse of Negotiation Power

The results from the multivariate analysis show that Mercosur's non-incorporation is a story of empty promises, management problems and the abuse of negotiation power. In the first example for empty promises, delegations sign agreements on deeper cooperation during high levels of conflict, because it allows signaling a sustained interest in Mercosur despite single, salient disputes. However, due to the high adaption costs of these policies, member state governments are reluctant to incorporate them. Figure 3(a) displays the effect from regional crises on incorporation. On the basis of the estimated regression equation, I simulate the expected time for incorporation at different conflict levels (King, Tomz and Wittenberg 2000). What happens to the expected time necessary for incorporation if the level of conflict rises from 0 (2.5% quantile) to 18.5 (97.5% quantile)?

The figure shows how incorporation changes when the conflict level increases by 18.5 points on the index. Under control of all other factors, incorporation will take on average 2454 days more. In contrast, the level of conflict is unrelated to the incorporation process of all other policies. The uncertainty of the expected time for incorporation is too large to clearly expect a swifter incorporation process.

The reason for this behaviour are empty promises. At first, governments easily contract over future cooperation during times of conflict, because they benefit from displaying commitment to the regional agreement. But while Mercosur's members make promises about 'deeper' cooperation, they do not necessarily intend to keep them. Incorporation of and later compliance to these agreements is costly. Governments prefer not to put the terms of the agreements into legal practice. And given they do not have to fear immediate consequences from non-incorporation such as losing reputation or explicit sanctions by a third party arbiter, they refrain from doing so.

The most prominent example are Brazil's and Argentina's economic crises at the turn

of the millennium (Bouzas 2003; Malamud 2005). The events spurred a number of trade disputes between 1999 and 2002, leading Mercosur's members to engage in fierce debates over the trade of chicken, car tires and sugar, amongst others. Politicians needed to cater for these concerns out of electoral considerations and had to protect important domestic interest groups. Despite of these conflicts, however, governments ensured other international partners and investors that they still intended to continue regional cooperation and adhere to market friendly economic policies (Gómez-Mera 2009, 2013). In consequence, Mercosur's member governments initiated a prominent campaign to relaunch the regional integration project (*el Relanzamiento del Mercosur*), contracting over a broad array of institutional innovations and further governmental cooperation.This relaunch, however, never lived up to solemn vows on paper (Bouzas 2001; Gómez- Mera 2013; Malamud 2005).

Empty promises also occur when politicians are eager to impress their electorate. Governments sign policies that announce further Mercosur cooperation for electoral reasons while Mercosur is popular. But governments are unassertive incorporators if the implementation of a particular policy is very costly, for example in the case of policies on the further functional diversification and stronger centralisation of Mercosur's polity.

Again, I simulate the effect from an increase of the central explanatory variable – here the citizens' support of regional economic cooperation – from a comparably low level at 70.4% (2.5% quantile) to a high level at 89.8% (97.5% quantile). I then calculate the resulting difference in the expected incorporation duration for policies on 'deeper' cooperation that politicians adopt in the Common Market Council and those bureaucrats adopt in the other decision bodies (figure 3(b)).

If politicians sign agreements, a leap in Mercosur's popularity has marked effects on subsequent incorporation of policies on 'deeper' cooperation. On average, the simulated rise of 19.4 percentage points in Mercosur's popularity leads to expect 2893 more days for incorporation. In contrast, public opinion takes virtually no substantive effect if bureaucrats sign such policies.

This at first sight counterintuitive result – the more in favour the population towards regional cooperation, the longer it takes to enact regional policies domestically – is a consequence from empty promises. Politicians contract for matters of a positive and proactive image. At the same time, they make use of voter's limited capacity to follow up on the details of international trade governance (Kono 2006; Magee, Brock and Young

1989). Delaying or even vetoing incorporation comes at virtually no price. Politicians make empty promises about deeper cooperation in Mercosur, because they benefit from announcing them, but can easily prevent their legal validity.

But empty promises are not the only reason for non-incorporation. Management issues challenge the swift and correct incorporation of Mercosur policies. The slow incorporation of policies without a technical annex indicates that a more thorough preparation does indeed reduce obstacles during the incorporation process. More complex policies are more likely to contradict existing legislation. Similarly, member governments require more time to incorporate those policies that explicitly change the status quo. More veto players increase the necessary coordination of interests when drafting a policy, resulting in more error prone legislation and more time for incorporation.

In addition, preference related issues play an important role. Whoever chairs Mercosur's meetings seeks to make use of the own superior bargaining position to the detriment of their partners' interest. Similarly, more economically independent member countries find it more easy to realise their policy goals. The swift incorporation of exceptions from the Common External Tarifffits into the picture. These policies are the government's attempt to appease interest groups (Gómez-Mera 2005) and serve governments to increase the political viability of the regional cooperation scheme (Olarreaga 1998). Since incorporating these agreements is highly beneficial, it is no surprise that this group of policies finds the immediate attention of governments. In addition, incentives for free-riding do not seem to cause Mercosur's incorporation issues. If motives for free-riding exist, we would observe much longer durations for policies regulating the common external tariff. Bargaining strength therefore makes much more of a difference to subsequent incorporation than fundamental differences in member's institutional context such as the legal traditions of the respective constitutions. If monist constitutions were an important advantage, in particular Argentina and Uruguay should incorporate policies much more easily.

Empty Promises and International Cooperation

Mercosur's founding members Argentina, Brazil, Paraguay and Uruguay adopted 1033 regulations between 1994 and 2008, but incorporated only about two thirds of them. Analysing this data with a multivariate hazard rate model, this study shows that Mercosur's incorporation problem has multiple causes. Empty promises constitute an important stumbling block to incorporation in Mercosur. In addition, managerial problems, but also the abuse of negotiation power cause longer or even vetoed incorporation processes. Free-riding does not affect incorporation.

The study makes several contributions. In analysing Mercosur's complete incorporation record of all policies adopted between 1994 and 2008, it offers comprehensive and empirically grounded insights into the determinants of incorporation behaviour in Mercosur. Focussing on the consequences from its institutional design, this study adds to the understanding of Mercosur's rules for incorporation (Bouzas et al. 2008), the effects from its intergovernmental enforcement mechanisms and low levels of information about the status quo of incorporation (Perotti 2002; Zalduendo 1998).

Moreover, the paper adds empty promises as an important mechanism to explain non-incorporation in regional integration, thus offering valuable insights to an increasingly comparative literature (Börzel and Risse 2012; Gray 2014; Malamud 2010). The paper furthers the understanding of how institutions affect international cooperation. When governments do not need to fear consequences from non-compliance, signatures alone may be reason enough for contracting. Empty promises (Deere 2009; Hafner-Burton and Tsutsui 2005), window dressing (Mearsheimer 1994) or moribund hard-law (Marcoux and Urpelainen 2013) then are an important behavioural outcome of a particular institutional design.

International cooperation is apparently not only about creating rules that serve to mutually adjust states' behaviour (Keohane 1984). The "assumption of a general propensity of states to comply with international obligations" (Chayes and Chayes 1995:3) might require some qualification. In international relations, not all agreements are made to be kept. Claiming international cooperation can be reason enough to sign international law.

FIGURES 3a) AND 3b) ABOUT HERE

(a) Governments use signing to signal sustained interest in regional cooperation despite high levels of conflict, but seek to avoid the high adaption costs from policies on governmental cooperation. How much incorporation delay if the level of regional conflict raises from 0 (2.5% quantile) to 18.5 (97.5% quantile)? Expected difference in incorporation duration for governmental cooperation on the left and all other policies on the right. Conflict level as measured by Gómez-Mera (2013).

(b) Politicians in the CMC use signing to create a positive image among their electorate, but seek to avoid the high adaption costs from policies on governmental cooperation. How much incorporation delay if the popular- ity of regional cooperation raises from 70.4% (2.5% quantile) to 89.8% (97.5% quantile)? Expected difference in incorporation duration for policies on governmental cooperation for the CMC on the left and the CMG and TC on the right. Popularity as measured by the *Latinobarómetro.*

Figure 3 Governments easily adopt policies that offer benefits from merely signing them, but seek to avoid those that are costly to incorporate. These empty promises cause systematically delayed incorporation. Results from simulations with all other covariates held at their mean. Points indicate the expected difference, bars indicate the central 95% uncertainty.

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